



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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## **Memorandum**

**Date:** May 17, 2022

**To:** Richard Conescu, Chair, & Members, Zoning Board of Adjustment

**From:** Timothy J. Thompson, AICP, Community Development Director

**Subject:** **Black Diamond Development, LLC. (petitioner) and 744 DW LLC (owner)** - Variances under Section 2.02.3.B of the Zoning Ordinance to permit an industrial warehouse use in the C-2 (General Commercial) District and Section 3.02 to allow for a rear setback of 5 feet whereas 40 feet is required. The parcel is located at 744 DW Highway in the C-2 (General Commercial) District. Tax Map 7E, Lot 35. Case # ZBA 2022-16.

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The following information is provided to aid in your consideration of the above referenced case. Additional background and application materials are included in your packet.

### **Background**

The subject parcel, Map 7E, Lot 35, is approximately 3.64 acres in size currently (the lot was recently conditionally approved for a lot line adjustment with adjacent lot 7E/36 and will ultimately be 4.1 acres upon final approval) and is located at 744 DW Highway in the C-2 (General Commercial) District.

The site is currently a single family residence in some state of disrepair (likely to be either renovated and converted to a non-residential use following site plan review or razed), and is abutted by the industrial building containing Nuthin' But Good Times, powerlines to the north, the Everett Turnpike to the west, Majestic Motors to the south, and by a single family home, an auto repair shop, and Crosswoods Path to the east.

The petitioner seeks to build an industrial warehouse on the commercially zoned property, which is not permitted, and also to locate the building 5 feet from the rear property line whereas 40 feet is required.

### **Standard of Review**

It is the burden of the petitioner to demonstrate that the five criteria for the granting of the variance under Section 2.02.3.B of the Zoning Ordinance to permit an industrial warehouse use in the C-2 (General Commercial) District and Section 3.02 to allow for a rear setback of 5 feet whereas 40 feet is required, are met.

**Should the Board find that the petition meets the variance criteria; staff recommends that any approval be conditioned upon the following:**

- 1) The petitioner shall obtain site plan approval from the Planning Board for the industrial warehouse development.

Ec: Black Diamond Development, LLC, Petitioner  
744 DW LLC , Owner  
Matt Peterson, Keach-Nordstrom  
Building Department Staff  
John Manuele, Fire Marshal

Cc: Zoning Board File